



U.S. Department of Justice

Antitrust Division

City Center Building
1401 H Street, NW
Washington, DC 20530

September 13, 1999

Mr. Gregory G. Strott
President
Calvert Trash Systems, Inc.
P.O. Box 9
Owings, Maryland 20736-0009

Re: *Comment on Proposed Final Judgment in United States, State of Ohio, et al. v. USA Waste Services, Inc., Waste Management, Inc., et al., Civil No. 98-1616 (N.D. Ohio, filed July 16, 1998)*

Dear Mr. Strott:

This letter responds to your two letters commenting on the proposed Final Judgment, currently pending in federal district court in Cleveland, Ohio. The Complaint in this case charged, among other things, that USA Waste's acquisition of Waste Management would substantially lessen competition in the disposal of commercial waste from the Baltimore, Maryland area. The proposed Judgment would settle the case by, *inter alia*, requiring that the defendants divest disposal capacity at three Baltimore area transfer stations owned by USA Waste and Waste Management. In a transaction approved by the United States in early January 1999, under the terms of the decree, the defendants divested that disposal capacity to Browning-Ferris Industries, Inc. ("BFI"), which previously did not own or operate any waste transfer stations in the greater Baltimore area.

In your letters, you expressed concern that the proposed Judgment did not eliminate the effects of USA Waste's acquisition of Waste Management in several markets that were not alleged in the governments' Complaint. Specifically, you charged that the defendants should be: (a) enjoined from entering into any small container commercial waste hauling agreements that exceed a year with Baltimore area customers; (b) required to divest their small container commercial waste hauling operations in southern Maryland; (c) enjoined from raising their waste disposal prices, presumably at any of their Maryland facilities; and finally, (d) required to provide their competitors access to a transfer station on the Eastern Shore of Maryland on the same terms on conditions as the defendants enjoy at that facility.

The United States strongly believes that the ordered divestiture of Baltimore area disposal capacity and other injunctive relief contained in the proposed Judgment [*see* §§ II(C)(2)(b) IV(A), VII(A)] will alleviate the competitive concerns alleged in the Complaint by introducing a major new competitor into the waste disposal market, capable of providing a competitive alternative to the defendants' own Baltimore area waste disposal facilities.

As to your statement that additional injunctive relief is necessary to eliminate competitive problems the merger would create in Baltimore, and the southern and Eastern Shore areas of Maryland, we note that at the time of the governments' Complaint, we had seen no evidence that the defendants' merger would raise competitive problems warranting the imposition of the relief that you propose. Of course, should we find in a subsequent investigation that the defendants' activities have unreasonably restrained competition in these or any other waste collection or disposal markets, the United States will take appropriate legal action, including requesting that a court impose injunctive relief. Depending on the nature of the violation, that relief may perhaps be similar to that you outlined in your comments on this proposed Judgment. In the meantime, if you believe that your operations have been injured as a result of the proposed merger, you are certainly free to institute a private antitrust action for damages or injunctive relief in federal district court.

Thank you for bringing your concerns to our attention; we hope this information will help alleviate them. Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. §16(d), a copy of your comment and this response will be published in the Federal Register and filed with the Court.

Sincerely yours,

/s/

J. Robert Kramer II
Chief
Litigation II Section